



# Texas Department of Insurance

## Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645  
512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

##### Requestor Name and Address

USMD HOSPITAL AT FORT WORTH  
9003 AIRPORT FREEWAY STE G300  
NORTH RICHLAND HILLS TX 76180

##### Respondent Name

Texas Mutual Insurance Co

##### Carrier's Austin Representative Box

Box Number 54

##### MFDR Tracking Number

M4-14-1303-01

##### MFDR Date Received

January 9, 2014

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "We are requesting a Medical Fee Dispute because the reconsideration denied. We requested reconsideration because the DRG underpaid and REV code 278 denied."

**Amount in Dispute:** \$23,930.43

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** Written acknowledgement of medical fee dispute received, however no position statement submitted.

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 20 – 22, 2013	Inpatient Hospital Surgical Services	\$23,930.43	\$23,930.43

#### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

##### Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
- 28 Texas Administrative Code §134.404 sets out the guidelines for reimbursement of hospital facility fees for inpatient services.
- The services in dispute were reduced/denied by the respondent with the following reason codes:
  - W1 – Workers Compensation State Fee Schedule Adjustment
  - 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated
  - 16 – Claim/service lacks information which is needed for adjudication
  - 193 – Original payment decision is being maintained

**Issues**

1. Were the disputed services subject to a specific fee schedule set in a contract between the parties that complies with the requirements of Labor Code §413.011?
2. Which reimbursement calculation applies to the services in dispute?
3. What is the maximum allowable reimbursement for the services in dispute?
4. Is the requestor entitled to additional reimbursement for the disputed services?

**Findings**

1. 28 Texas Administrative Code §134.404(e) states that: “Except as provided in subsection (h) of this section, regardless of billed amount, reimbursement shall be:
  - (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011; or
  - (2) if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any applicable outlier payment amounts and reimbursement for implantables.”

No documentation was found to support the existence of a contractual agreement between the parties to this dispute; therefore the MAR can be established under §134.404(f).

2. §134.404(f) states that “The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.
  - (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
    - (A) 143 percent; unless
    - (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 108 percent.”

Review of the documentation finds that that the facility requested separate reimbursement for implantables; for that reason, the requirements of subsection (g) apply.

3. §134.404(g) states, in pertinent part, that “(g) Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission.
  - (1) A facility or surgical implant provider billing separately for an implantable shall include with the billing a certification that the amount billed represents the actual costs (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge."

Review of the documentation found supports that the following items were certified as required by (g):

Itemized Statement Rev Code or Charge Code	Itemized Statement Description	Cost Invoice Description	# Units & Cost Per Unit	Cost Invoice Amount	Per item Add-on (cost +10% or \$1,000 whichever is less).
278	Infuse Large 7510600	Bone Graft Kit 7510600	2 @ \$5,408.00	\$10,816.00	\$1,081.60
278	Bone Graft	Accell EV03 10cc	2 @ \$1,824.00.00	\$3,648.00	\$364.80
278	Cap Locking 5 -7 mm 01-80101	Set screw 01-80101	5 @ \$376.00	\$1,880.00	\$188.00
278	Screw Cannulated 01-80076-40	Pedicle Screw Assy 01-88076-40	1 @ \$1,725.00	\$1,725.00	\$172.50
278	Screw Set 5-7MM 01-80100	Set screw 01-80100	1 @ \$375.00	\$375.00	\$37.50
278	Screw Pedicle Coated 6.5X40	Remind Quad-H Solid RBM 6.5x40	1 @ \$1,995.00	\$1,995.00	\$199.50
278	Screw Multi-Thread 01-80138-40	Multi Thread Solid 7x40 01-80138-40R	2 @ \$1,995.00	\$3,990.00	399.00

278	Screw Cannulated 01-80077-40	Pedicle Screw Assy Reset Solid 01- 80077-40	1 @ \$1,725.00	\$1,725.00	\$172.50
278	Screw Coat	SUBMITTED DOCUMENTATION DID NOT INCLUDE INVOICE	N/A	N/A	N/A
278	Rod Bents 01- 80120-5570	Pre-Lordotio Pedicle Rod 01-80120-5570	2 @ 525.00	\$1,050.00	\$105.00

<b>Total Supported Cost</b>	<b>Sum of Per-Item Add-on</b>
\$27, 204.00	\$2,720.40

The division finds that the facility supported separate reimbursement for these implantables, and that the cost invoices were certified as required. Therefore, the MAR is calculated according to §134.404(f)(1)(B).

4. §134.404(f)(1)(B) establishes MAR by multiplying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors (including outliers) by 108%, **plus** reimbursement for items appropriately certified under §134.404(g). The Medicare IPPS payment rates are found at <http://www.cms.gov>, and the sum of the per-item add-on for which separate reimbursement was requested are taken from the table above.

- Documentation found supports that the DRG assigned to the services in dispute is 460, and that the services were provided at USMD HOSPITAL AT FORT WORTH. Consideration of the DRG, location of the services, and bill-specific information results in a total Medicare facility specific allowable amount of \$32,213.93. This amount multiplied by 108% results in an allowable of \$34,791.04.
- The total cost for implantables is \$27,204.00. The sum of the per-billed-item add-ons exceeds the \$2000 allowed by rule; for that reason, the total allowable amount for implantables is \$27,204.00 plus \$2,000, which equals \$29,204.00.

Therefore, the total allowable reimbursement for the services in dispute is \$34,791.04 plus \$29,204.00, which equals \$63,995.04. The respondent issued payment in the amount of \$23,594.54. Based upon the documentation submitted, additional reimbursement in the amount of \$23,930.43 is recommended.

**Conclusion**

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$23,930.43 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

March 31, 2014  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Manager

March 31, 2014  
Date

## ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**